

<b>Notice of Allowability</b>	Application No.	Applicant(s)	61
	09/396,303	SCHWARTZMAN ET AL.	
	Examiner	Art Unit	
	Khanh Tran	2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to the Amendment filed on 11/08/2004.
2.  The allowed claim(s) is/are 1-18, 21, 25-30, which are renumbered as set forth in the Office Action.
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date 05/23/2002.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of
 Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

TESFALDET BOURE  
PRIMARY EXAMINER

1. The Amendment filed on 11/08/2004 has been entered. Claims 1-18, 21, 25-30 are pending in this Office action.

#### **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Haruo Yawata, Limited Recognition under 37 CFR 10.9(b) on 11/30/2004, Telephone Number 510-843-6200, Extension 245.

- Regarding claim 30, "The method of claim 18" has been changed to -- The apparatus of claim 18 --.

3. Claims are renumbered as shown below:
  - Claim 17 renumbered 16;
  - Claim 25 renumbered 17;
  - Claim 29 renumbered 18;
  - Claim 16 renumbered 19;
  - Claim 18 renumbered 20;

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- Claim 26 renumbered 21;
- Claim 30 renumbered 22;
- Claim 21 renumbered 23;
- Claim 27 renumbered 24;
- Claim 28 renumbered 25.

***Response to Arguments***

4. Applicant's arguments after claims being amended, see pages 8-9 of the Remarks, filed on 11/08/2004, with respect to claims 1-15, 17-18, 25-26, and 29-30 under 35 U.S.C. 103(a) have been fully considered and are persuasive. The rejection of claims 1-5, 8-15, 17-18, 25-26, and 29-30 has been withdrawn.

5. Applicant's arguments, see pages 8-9 of the Remarks, filed on 11/08/2004, with respect to claims 16 and 21 under 35 U.S.C. 112, 1<sup>st</sup> paragraph, have been fully considered and are persuasive. The rejection of claims 16 and 21 has been withdrawn after Applicants amended claims.

***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

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6. Regarding claim 1, during a telephone interview with the applicant's representatives, Mr. Haruo Yawata, on November 5, 2004, it is agreed to add the critical limitation "if the amplifier cannot switch at a sufficient speed not to cause data loss". With the added critical limitation, the cited prior art of record (US 6,160,571), either singularly or in combination, fails to teach or suggest the uniquely distinct features "wherein the upstream transmitter is configured to generate the control signal for implementing (i) a first mode of protection from noise leakage using only the switch if the amplifier cannot switch at a sufficient speed not to cause data loss, and (ii) a second mode of protection from noise leakage using both the amplifier and the switch component if the amplifier can switch at a sufficient speed not to cause data loss".

7. Regarding claim 10, during a telephone interview with the applicant's representatives, Mr. Haruo Yawata, on November 5, 2004, it is agreed to add the critical limitation "if the amplifier cannot switch at a sufficient speed not to cause data loss". With the added critical limitation, the cited prior art of record (US 6,160,571), either singularly or in combination, fails to teach or suggest the uniquely distinct features "generating the control signal for implementing (i) a first mode of protection from noise leakage using only the switch if the amplifier cannot switch at a sufficient speed not to cause data loss, and (ii) a second mode of protection from noise leakage using both the amplifier and the switch component if the amplifier can switch at a sufficient speed not to cause data loss".

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8. Regarding claim 16, said claim is allowed over the prior art of record since the prior art of record (US 6,160,571), taken individually or in combination fails to teach or suggest the uniquely distinct steps of "determining whether an amplifier in the cable modem can enable at a sufficient speed not to cause data loss" and "activating and deactivating the switch component while activating the amplifier if the amplifier cannot enable at a sufficient speed".

9. Regarding claim 18, during a telephone interview with the applicant's representatives, Mr. Haruo Yawata, on November 5, 2004, it is agreed to add the critical limitation "if the amplifier cannot switch at a sufficient speed not to cause data loss". With the added critical limitation, the cited prior art of record (US 6,160,571), either singularly or in combination, fails to teach or suggest the uniquely distinct features "means for generating the control signal for implementing (i) a first mode of protection from noise leakage using only the switch if the amplifier cannot switch at a sufficient speed not to cause data loss, and (ii) a second mode of protection from noise leakage using both the amplifier and the switch component if the amplifier can switch at a sufficient speed not to cause data loss".

10. Regarding claim 21, said claim is directed to a method of reducing noise leakage from a cable modem onto a cable plant. The claim is allowed over the prior art of record since the prior art of record (US 6,160,571), taken individually or in combination, fails to teach or suggest the uniquely distinct steps of "determining

whether an amplifier in the cable modem can enable at a sufficient speed to not cause data loss and "activating and deactivating the switch component while activating the amplifier cannot enable at a sufficient speed".

11. Regarding claim 27, the claim is allowed over the prior art of record since the prior art of record (US 6,160,571), taken individually or in combination, fails to teach or suggest the uniquely distinct steps of "activating the switch component while keeping the amplifier activated if it is determined that the amplifier is not able to be activated fast enough to receive data without causing data loss" and "deactivating the switch component while keeping the amplifier activated if it is determined that the amplifier is not able to be deactivated fast enough to receive data without causing data loss".

10. Regarding claim 28, the claim is allowed over the prior art of record since the prior art of record (US 6,160,571), taken individually or in combination, fails to teach or suggest the uniquely distinct steps of "means for activating the switch component while keeping the amplifier activated if it is determined that the amplifier is not able to be activated fast enough to receive data without causing data loss" and "means for deactivating the switch component while keeping the amplifier activated if it is determined that the amplifier is not able to be deactivated fast enough to receive data without causing data loss".

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Tran whose telephone number is 571-272-3007. The examiner can normally be reached on Monday - Friday from 08:00 AM - 05:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on 571-272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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